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2200 GRIEVANCE AND APPEALS PROCESS

2201 Overview

This chapter sets forth the procedures for proper notice of intended action, informal resolution of complaints, administrative review, grievances, hearings and appeals.

2202 Notice of Intended Action

A Support Coordinator or health plan representative must issue a written Notice of Intended Action to any individual/responsible person who receives services from DES/DDD:

- a. services are denied, changed, reduced or terminated; or
- b. eligibility is denied or ceases.

See Appendix 2200.A for a copy of the suggested format. The notice must be issued on DES/DDD or health plan letterhead and include the following information:

- a. the name and address of the responsible person;
- b. the date that the notice is mailed;
- c. the name of the individual affected by this action;
- d. the action that is being taken;
- e. the effective date of the action;
- f. the reason for the action;
- g. what the individual/responsible person can do if he/she does not agree with this action; and
- h. the signature of the individual authorized to make the decision regarding the determinations noted previously.

Every effort must be made to explain the action in the individual's primary language using vocabulary that he/she will understand. This notice must be mailed at least 10 calendar days before the date that the action will be taken.

42 CFR 431.210; 431.211
A.R.S. § 36-563
A.A.C. R6-6-1802

2203 Informal Complaint Resolution

The individual or his/her responsible person may not agree with the intended action. They may also have a complaint regarding an issue unrelated to a notice of intended action, such as a quality of care issue or problems related to communication or courtesy. Individuals and their responsible persons should be encouraged to discuss any problems or complaints with the Support Coordinator as soon as they arise. The Support Coordinator is responsible for reviewing and investigating complaints and attempting to resolve them informally before they reach the formal grievance stage. The Support Coordinator should contact the DPM or designee to inform them of the informal resolution. If needed, the DPM or designee may assist in the informal resolution.

If no informal resolution to the problem is possible, the Support Coordinator should advise the individual or his/her responsible person of the process for filing a formal grievance, however, the Support Coordinator's responsibilities do not extend to preparing the document for the individual.

The Support Coordinator must document the individual's complaint, the Support Coordinator's attempts to resolve the complaint and the fact that the individual or his/her responsible person was advised of his/her right to file a grievance and the process for doing so. This documentation should be included in the case notes.

2204 Administrative Review Procedures

If the individual or his/her responsible person does not wish to pursue informal resolution of his/her complaint, or the informal resolution process was not successful, a request for administrative review can be made. This request must be made within 35 calendar days of the attempted informal resolution or written notice of intended action. If there was no informal resolution process or written notice, the individual or his/her responsible person has 60 calendar days from the date of the initial problem to request an administrative review.

The request should be made in writing, either by letter or completion of a DES/DDD Health Care Issue Status form (DD-148, Appendix 2200.B) to the Office of Compliance and Review (OCR). Verbal requests can be made by calling OCR, but are not encouraged.

Whatever manner of request for a review is used, the following information must be given:

- a. individual's name, date of incident, address, identification number, birth date and health plan, if appropriate;
- b. responsible person's name, relationship and telephone number;
- c. Support Coordinator's name and telephone number;
- d. physician's name, if applicable; and
- e. statement of the nature of the complaint and the action requested.

All requests for administrative review should be sent to:

DES/DDD
Office of Compliance and Review
P. O. Box 6123, Site Code 791A
Phoenix, Arizona 85005

Review and investigation of the stated issues will be completed by OCR. OCR staff will submit a request for facts to the District office. Any documentation of the complaint/intended action must be returned to OCR within 15 calendar days.

OCR staff will then contact the individual or his/her responsible person, medical providers, service providers and/or District staff to obtain additional information. Relevant policies will be reviewed and Central Office staff will be consulted as necessary. Once the fact finding is complete, a written decision will be rendered to the individual or his/her responsible person within 30 calendar days of receipt of the individual's administrative review request.

There will be no change in the individual's status or the services he/she receives while the administrative review is occurring. An exception may be allowed under certain circumstances, i.e., an individual may need additional services and/or care if necessitated by a change in health status.

A.R.S. § 36-563
A.A.C. R6-6-1803

2205 Hearings and Appeals

Further appeal options depend on whether the individual is ALTCS eligible or whether he/she receives State funded services, however, there are common components to the two appeal processes. These include:

- a. the hearing must be held at the established hearing location that is most convenient for the individual or his/her responsible person. The individual and his/her responsible person must be informed of the date, time, and location of the hearing no less than 20 calendar days in advance. At the discretion of the hearing officer, the hearing can be conducted by telephone;
- b. the hearing notice must state that the individual or his/her responsible person has the right to present his/her case in person or by telephone; copy all case file documents, and any material that DES/DDD will use in the hearing at a reasonable time before the hearing; obtain assistance from the DES/DDD local office in preparing his/her case; make inquiry at the DES/DDD local office concerning the availability of free legal resources and request a change of the hearing officer;
- c. hearings must be conducted in an orderly manner by the hearing officer. The hearing officer can rule on the admissibility of evidence, and include or exclude witnesses. Parties may present evidence, cross examine witnesses and present arguments;
- d. a complete record is made of all hearings. The individual and his/her responsible person may inspect the record at a location that is accessible to them; and
- e. the hearing decision must be based solely on the evidence and testimony presented at the hearing, appropriate State and federal law and applicable DES rules.

2205.1 ALTCS Hearing and Appeal Process

When a decision is rendered by the AD with which the individual or his/her responsible person does not agree, he/she may file a request for a hearing by the AHCCCS Office of Grievance and Appeals. The appeal request must be made in writing and received by OCR no later than 30 calendar days after the postmark date of the decision letter.

The request should be sent to:

DES/DDD
Office of Compliance and Review
P. O. Box 6123, Site Code 791A
Phoenix, Arizona 85005

Once the hearing request is made, OCR staff will prepare a duplicate file for submission to AHCCCS along with the hearing request. This file will include copies of the notice of intended action, request for administrative review, investigative materials and the decision letter.

The hearing will be scheduled by AHCCCS representatives and the individual or his/her responsible person will be notified of the date and time of the hearing in writing. AHCCCS will also notify OCR of the hearing schedule.

At the hearing, the individual or his/her responsible person and a DES/DDD representative will meet with an AHCCCS Hearing Officer. Depending on the nature of the grievance and his/her location, it may be helpful for the Support Coordinator to attend the hearing. This hearing is informal and the rules of evidence do not apply.

Based on the information gathered by the Hearing Officer through testimony, presentation of evidence and the record supplied by OCR, the Hearing Officer will prepare written findings of fact and conclusions of law, and render a recommended decision to the AHCCCS Director. The AHCCCS Director will then issue his/her decision in writing and notify any party adversely affected of the right to request a rehearing or review.

Petition for rehearing or review, if requested, must be made to the AHCCCS Office of Grievance and Appeals no later than 15 calendar days after the date of the Director's decision. The petition must completely explain the grounds on which is rehearing is being made. Petitions for rehearing/review are to be sent to:

AHCCCS Office of Grievance and Appeals
701 East Jefferson Street
Phoenix, Arizona 85034

The rehearing will be decided by the AHCCCS Director. He will issue a final written decision on the matter within 90 calendar days of the date that the request for rehearing was filed, unless good cause exists for an extension of the decision. If an extension is necessary, the individual or his/her responsible person will be notified in writing.

If the individual or his/her responsible person is still not satisfied with the decision, he/she may seek judicial review of the AHCCCS decision through the court system. All administrative remedies must be exhausted before the court will consider the case.

2205.2 Appeal Process for Individuals Who Receive State Funded Services

When a decision is rendered by the AD with which the individual or his/her responsible person does not agree, he/she may file a request for a hearing by the DES Office of Appeals. The appeal request must be made in writing and received by OCR no later than 15 calendar days after the postmark date of the decision letter. The request should be sent to:

DES/DDD
Office of Compliance and Review
P. O. Box 6123, Site Code 791A
Phoenix, Arizona 85005

Once the hearing request is made, OCR staff will prepare a duplicate file for submission to DES along with the hearing request. This file will include copies of the notice of intended action, request for administrative review, investigative materials and the decision letter.

The hearing will be scheduled by DES representatives and the individual/responsible person will be notified of the date and time of the hearing in writing. DES will also notify OCR of the hearing schedule.

At the hearing, the individual or his/her responsible person and a DES/DDD representative will meet with an DES Hearing Officer. Depending on the nature of the grievance and his/her location, it may be helpful for the Support Coordinator to attend the hearing. This hearing is informal and the rules of evidence do not apply.

Based on the information gathered by the Hearing Officer through testimony, presentation of evidence and the record supplied by OCR, the Hearing Officer will prepare written findings of fact and conclusions of law, and render a decision in writing. Any individual adversely affected by the decision will be notified of the right to appeal the decision.

An appeal of the Hearing Officer's decision, if requested, must be made to the DES Office of Appeals no later than 15 calendar days after the date of the decision. The request must completely explain the grounds on which the appeal is being made. Appeal requests should be sent to:

DES Office of Appeals
207 East McDowell Road
Phoenix, Arizona 85004

The appeal will be decided by the DES Appeals Board. The Board will issue a final written decision on the matter within a reasonable time period.

If the individual or his/her responsible person is still not satisfied with the decision, he/she may seek judicial review of the DES decision through the court system. All administrative remedies must be exhausted before the court will consider the case.

42 CFR 431.200, et seq.
A.R.S. § 36-563
A.A.C. R6-6-1805; R6-6-2001, et seq.

2206 Contact with Attorneys or Their Staff

The individual/responsible person has a right to have anyone present they wish including an attorney or his/her staff and may tape record a meeting. DES/DDD may have their staff present at a meeting and may tape record a meeting.

2206.1 Conducting All Meetings

- a. clarify the purpose of the meeting;
- b. check with the individual/responsible person as to how many people they will have in attendance so adequate space will be provided and clarify with the family the names and titles of those attending from DES/DDD; and
- c. schedule space appropriate for the number of people in attendance.

2206.2 Tape Recording Meetings

Unless there are either pending grievances or legal actions, there are no prohibitions for parents to tape record Individual Support Plan (ISP) meetings. Canceling a meeting for this reason is not acceptable.

2206.3 Requests for Client Information

In order to ensure uniformity and conformity, all requests for individual information must be cleared through the OCR.

Situations include, but are not limited to:

- a. any circumstance where staff may deem it necessary to initiate contact with an attorney or his/her staff; or
- b. any request for individual records or communication regarding an individual's services unless prior authorized by the OCR.